Before the
FEDERAL COMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992	)	MB Docket No. 05-311

REPLY COMMENTS OF THE GREATER METRO TELECOMMUNICATIONS CONSORTIUM, THE CITY OF COLORADO SPRINGS, COLORADO AND THE CITY OF TACOMA, WASHINGTON IN RESPONSE TO THE FURTHER NOTICE OF PROPOSED RULEMAKING

KISSINGER & FELLMAN, P.C
Kenneth S. Fellman, Esq
3773 Cherry Creek North Drive, Suite 900
Denver, Colorado 80209
Telephone: 303-320-6100
Facsimile: 303-320-6613
Email: kfellman@kandf.com

May 7,2007

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SUMMARY

These Reply Comments are filed by the Greater Metro Telecommunications Consortium ("GMTC"), the City of Colorado Springs, Colorado and the City of Tacoma, Washington (collectively, the "Local Governments").[1] In response to a variety of issues raised by other conuiienters, the Local Government assert that (1) the Commission has no authority to adopt rules under provisions of federal statutes that were not identified in the underlying Notice of Proposed Rulemaking; (2) the Commission's general jurisdiction under the Communications Act does not provide the legal authority to make the new rules adopted to benefit new entrants immediately applicable to incumbent cable operators; *(3)* it is legally impossible to make the new rules adopted pursuant to Section 621(a) fit under the renewal provisions of Section 626; (4) the Commission can not issue rules determining a further meaning of "commercially impracticable" under Section 625; (5) tlie Commission should not preempt locally adopted customer service standards; (6) tlie Commission should not order that gross revenues must be determined in accordance with Generally Accepted Accounting Principles ("GAAP"); (7) the Commission should reject arguments that many Local Franchising Authorities ("LFAs") routinely violate federal law in connection with franchise fee requirements of local cable franchises; and (8) the elimination of local franchise regulatory authority upon the entry of a second provider will not guaranty lower cable rates.

[1] For information on the Local Governments, *see*, Comments filed by the Local Governments, April 20,2007, *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection arid Competition Act of 1992*, Report and Order and Further Notice of Proposed Rulemaking, MB Docket No, 05-311, FCC 06-180 (rel. March 5,2007)

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These Reply Conmients are submitted by the Greater Metro Telecommunications Consortium ("GMTC"), the City of Colorado Springs, Colorado, and the City of Tacoma, Washington (collectively, "the Local Governments"). The Local Governments filed Conlments in response to the Further Notice, and after review of other Conlments filed in this proceeding, the Local Governnients seek to provide additional information for the Commission's consideration.

I. INTRODUCTION

These Reply Conmients will address eight issues that were discussed by a variety of other conmienters responding to tlie Commission's Further Notice of Proposed Rulemaking[2] Those issues are (1) whether tlie Coinmission has authority to adopt rules under provisions of federal statutes that were not identified in the underlying Notice of Proposed Rulemaking; (2) whether

[2] *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992*, Report and Order and Further Notice of Proposed Rulemaking, MB Docket No. 05-311, FCC 06-180 (rel March 5, 2007) (hereinafter "Order" or "Further Notice," as appropriate).

the Commission's general jurisdiction under tlie Communications Act provides the legal authority to make the new rules adopted to benefit new entrants immediately applicable to incumbent cable operators; *(3)* whether it is legally possible to make the new rules adopted pursuant to Section 621(a), fit under the renewal provisions of Section 626; (4) whether it is appropriate for the Commission to issue rules determining a further meaning of "commercially impracticable" under Section 625; (5) whether the Commission should preempt locally adopted customer service standards; (6) whether it is appropriate for the Commission to order that gross revenues must be determined in accordance with GAAP; (7) whether the Coinmission should accept arguments that many LFAs routinely violate federal law, in connection with franchise fee requirements of local cable franchises; and (8) whether the elimination of local franchise regulatory authority upon the entry of a second provider will guaranty lower cable rates.

II. ARGUMENT

A. Pursuant to the Administrative Procedures Act, the Commission Cannot Adopt Rules Under Any Other Provisions of the Cable Act Other than Section 621(a).

In this proceeding. tlie Commission has adopted rules purportedly under the authority granted in Section 621(a) of the Cable Act. 47 U S C Sec 541.[3] It cannot adopt rules imposing new time limits and remedies for franchise renewal procedures under Section 626; governing gross revenues and fianchise fee calculations under Section 622; limiting what PEG and I-NET consideration can be required under Sections 611 and 624 outside of the franchise fee cap; and/or creating new standards for modifications due to commercial impracticability under Section 625, because it has failed to adhere to the public notice and comment requirements of the

[3] *Id*

Administrative Procedures Act ("APA")[4]. When a federal agency promulgates a substantive rule, the notice and comment requirements of APA Section 553 are implicated, and must be followed in order for the rule in question to have the effect of law.' Where a federal agency fails to allow for public notice and comment of a proposed substantive rule, courts should vacate and refuse to enforce the improperly adopted rule.[6]

The APA's notice and comment requirements apply to substantive or legislative, as opposed to interpretive rules.' A substantive rule is one that "grants rights, imposes obligations, or produces other significant effects on private interests," as opposed to an interpretive rule that is defined as describing the agency's "intended course of action," or stating the agency's "tentative view of the meaning of a particular statutory term."[8] Some circuits make the distinction differently, focusing not on the "interpretive/substantive terminology" but rather focusing on "whether a rule is interpretive or legislative."[9] Under either view, the distinction carries the same weight – a substantive or legislative rule must be promulgated pursuant to the notice and comment requirements of Section 553, unless one of the exceptions in that section applies."

The Order adopts rules that specifically govern the time period in which applications for competitive franchises must be acted upon and provides for an interim franchise if the LFA does

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[4] 5 U S C § 553
[5] *Xin-Chang Zhang v Slattery*, 55 F.3d 732, 744 (2d Cir 1995) ("Generally, agency 'rules' must be subjected to a notice and comment period before taking effect ").
[6] *N Y State Elec & Gas Corp v. Saranac Power Partners*, L.P , 267 F i d 128, 131 (2d Cir. 2001) ("The **APA** empowers federal courts to 'hold unlawful and set aside agency action, findings, and conclusions found to be without observance of procedure required by law . . '").
[7] *Id*
[8] *White v Shalala*, 7 F.3d 296,303 (2nd Cir 1993)
[9] *Id*
[10] *Hoctor v U S Dep't of Agric.*, 82 F 3d 165, 167-68 (7th Cir 1996)

not act in accordance with the rules." The Order (and the Notice of Proposed Rulemaking that preceded it) adopts these competitive franchise rules under Sectioii 621(a), and as such, the iiew rules cannot apply to cable operators with existing franchises. Section 626 governs franchise renewal, and application of the Commission's new Section 621 rules to renewals under Section 626 would impose obligations and produce significant effects on private interests, thereby requiring notice and publication pursuant to the APA.

The Commission stated that it exercised its authority under Section 621(a) to determine when franchise fee calculations under Section 622 would constitute an unreasonable refusal to award a competitive franchise." However, the Commission's determination that franchise consideration, such as free cable service to public buildings and the provision of I-NETS and I-NET services,[13] must be credited against the 5% cap on franchise fee payments, aniounts to a dramatic change in existing practices. This ruling also imposes new obligations and produces significant effects on private contractual interests, necessitating **APA** notice requirements.

As discussed below in Sectioii II.D, the Fiber to the Home Council ("FTTH") suggests that the Commission adopt new rules in connection with this Further Notice, adding to the statutory definition of "commercial impracticability" under Sectioii 625. Once again, the Commission cannot consider substantive rule changes which will have an immediate impact on existing contractual obligations, without first complying with APA notice and comment requirements.

[11] Order, at paras 71-81
"Order, at para 94
[13] Order, at paras 108-120

Under a plain reading of APA Section 553, exceptions to the notice and conmient requirement are permitted only where tlie agency "for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to tlie public interest."[14] No such finding has been, or could be, made in this docltet and the Commission cannot adopt these rules contrary to APA procedures.

B. The Commission's General Authority to Promote the Goals of the Communications Act Does Not Include the Ability to Void Provisions of Existing Contracts.

A number of commenters state that the Order's rules for competitive providers should apply to incumbent operators immediately, and argue that the Commission can "clarify" the meaning and operation of contractual provisions in franchises regarding franchise fees, PEG support and I-NETS, under tlie general authority to promote competition and implement the goals of the Communications Act."[15] Regarding PEG and I-NETS, Time Warner argues that allowing incumbents to be immediately relieved of "unreasonable and excessive PEG and I-NET obligations" would be consistent with the Commission's goal to develop a consistent regulatory framework by regulating like services in a similar functional manner.[16]

Problematically, while tlie Commission "determined" that tlie interpretations set forth in the new rules "should be relatively well-known,"[17] both LFAs and cable companies have been interpreting these provisions differently for years. For example, free service to schools and other public buildings has been provided for many years in each of the Local Governments' franchise

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[14] 5 U S C § 553(B)
[15] NCTA Comments at p 8; Time Warner Comments at pp 5-8; RCN Comments at p 6
[16] Time Warner Comments at p 12
[17] Order at para 94

agreements – in addition to tlie 5% franchise fee. The Local Governments have negotiated franchise renewals over the years with a variety of experienced cable operators, including TCI, AT&T Broadband, Adelphia and Comcast – and have never had the cable operator demand or even suggest that the value of the free service must be included as part of the franchise fee cap. The sanie holds true for the construction of I-NETS and the value of services (either free or at reduced rates) provided over tlie I-NETS. Without any basis in the record, the Commission has made a determination that these items of consideration are part of; and not separate from, the franchise fee cap, *and* that this interpretation is "relatively well-known." In fact, just the opposite is true, and there is no credible evidence in the Commission's record to demonstrate otherwise. The determination that these kinds of consideration are part of the franchise fee cap is therefore arbitrary and capricious, and tlie Commission should not extend this error to incumbent cable operators.

Moreover, allowing incumbents to renege on existing franchise obligations would essentially be a federal re-write of existing contracts, and inconsistent with the statutory authority of LFAs to enter into franchise agreements in order to meet local cable related needs at a given point in time. The Cable Act provides that francliise renewals can be negotiated by LFAs to meet tlie local cable related needs of tlie community.[18] The Local Governments have entered into franchise renewal agreements with tlie incumbent cable operator in each community at various times over tlie past 15 years, and agreed to a variety of contractual provisions designed to meet local needs. The Commission cannot waive a magic wand over existing cable franchises and cause negotiated benefits necessary to meet local needs to disappear.

[18] 47 U S C Sec 546(c)(1)

Charter cites *Notional Mining Association v US. Dept of Interior*, 105 F.3d 691, 694 (D.C. Circuit 1997), for the proposition that general rulemaking authority provisions in a statute do not allow an agency to trump Congress' specific statutory directives elsewhere in the statute.[19] This rule of law strongly suggests that commenters who argue that there is Commission authority to generally promote the goals of the Communications Act by re-writing contractual provisions contrary to other specific sections of the Act granting authority to LFAs are misplaced and should he disregarded

C. The Commission's New Rules Adopted Under Section 621(a) Cannot Apply to Franchise Renewals Governed by Section 626.

RCN argues that, because the Commission found it had authority to implement franchise rules under Section 621(a)(1) for new entrants, it must also have authority to implement similar rules on incumbents under Section 626 regarding franchise renewal." In addition, Knology suggests that the Cable Act provisions on renewal allow for needs assessment and performance review only if a cable operator requests it."

The Commission's new rules address the timing for granting franchises to new entrants." This "shot clock," and the creation of "interim franchises" if the time periods are not met, are contrary to the specific provisions of Section 626.[23] Section 626 sets out the process for making an assessment of community needs. Franchise renewals are to be granted if specific criteria relating to meeting local cable related needs are met. Despite, Knology's claim, Section 626 allows *either* party to pursue the formal renewal process of the Cable Act. Initiation of the

[19] Charter Comments at p 10
[20] RCN Comments at p 6
[21] Knology Comments at p 6
[22] Order at paras 71-81
[23] 547 U S C Sec 546

formal renewal process requires tlie LFA to assess community needs and interests[24] – activities that cannot generally be completed within the 90 or 180-day time period the Commission has determined is appropriate for negotiating tlie franchise agreement. Section 626 additionally provides that the LFA may set the time period in which a franchise renewal proposal is submitted, without specifying any maximum number of days." After receipt of a complete renewal proposal including all information determined to be necessary by the LFA, tlie LFA has four months to act.[26] These LFA renewal procedures, some with specific time frames and some open-ended, are specifically authorized by Congress. The Commission's new rules cannot be reconciled with tlie renewal provisions of Section 626

D. The Commission Cannot Adopt Rules Creating a New Definition of "Commercially Impracticable" Under Section 625, to be Applicable to all Franchise Modifications.

FTTH argues that the Commission should adopt rules providing a detailed definition of "conunercially impracticable."[27] Section 625 (47 U.S.C. § 545(a)(1)) allows cable operators to obtain modifications of some franchise obligations when compliance with is commercially impracticable. In addition to the statutory definition of commercially impracticable,[28] FTTH cites legislative history from tlie 1984 Cable Act indicating that the definition of commercially impracticable is "as it is in the Uniform Commercial Code, Section 2-615."[29] FTTH asks the Commission to go further and adopt additional definitional rules beyond what is contained in existing law

[24] 547 U S C Sec 546(a)
[25] 547 U S C Sec 546(b)(3)
[26] 547 U S C Sec 546(c)(1)
[27] FTTH Comments at pp *6-8*
[28] 47 U S C Sec 545(f)
[29] FTTH Comments at p 7

Alcatel-Lucent makes similar arguments in connection with most-favored nations clauses, and suggests that, whenever lesser burdens are imposed upon a new provider, incumbent franchises should be modified under Section 625 to reduce tlie regulatory burden.[30] Without specifically raising Section 625, RCN argues that incumbents should be able to opt in to the franchise terms given to any new provider.[31]

Contrary to these conimenters' arguments, Section 625 does not provide for modification of *all* franchise requirements. It only applies to the "requirement for facilities and equipment" and the "requirement for services."[32] The cable operator has tlie burden of proving that tlie existing requirement is commercially impracticable "as a result of a change in conditions which is beyond the control of the operator ***and the*** *nonoccurrence of which* ***was a basic*** *assumption on* ***which the*** *requirement was based.*"[33] It is inconceivable that any incumbent cable operator can prove that an expectation of no competitive entry into the cable services market is a basic assumption upon which any franchise obligation is based.

Moreover, the commercial impracticability analysis suggests a case-by-case review and a franchise specific fact-finding, prior to a finding that a franchise provision should be modified under Section 625. *RCN v Newtown Twp.*, 2004 WL 315175 (E.D. Pa. 2004); ***Cable*** *TV Fund 14-A, Ltd v City of Naperville*, 1997 WL 280692, *6 (N.D. Ill. 1997).[34] If the law were otherwise, Congress would have set forth clearly in the statute its intent that tlie Commission determines what must be considered commercial impracticability in every instance in every

[30] Alcatel-Lucent Comments at pp. 6-7
[31] RCN Comments at p 8.
[32] 47 U.S C Sec 545(a)(1)(A) and (B)
[33] 47 U.S C Sec. 545(f) (emphasis added).
[34] For interpretation of "conimercial impracticality" under the UCC generally, ***see,*** *Iowa Elec Light* ***arid*** *Power Co v Atlas Coip*, 467 F.Supp 129, 134 (D C.Iowa, 1978); *International Minerals* ***arid*** *Chemical Corp v Llano, Inc*, 770 F.2d 879, 886-87 (10th Cir 1985)

community in the nation. The mere fact that one company may have different costs of doing business compared to another is not grounds for a national finding of commercial impracticability under tlie Uniform Commercial Code.

E. The Commission Cannot Preempt Locally Adopted Customer Service Standards

As stated in our Comments, tlie Local Governments strongly support the Commission's tentative conclusion that it lacks the legal authority to limit LFA discretion to adopt local customer service standards that may exceed tlie federal standards adopted by tlie Commission.[35] None of the industry conlmenters have provided applicable legal authority to suggest otherwise. AT&T's main arguments attempt to demonstrate that locally adopted customer service standards are inconsistent with region-wide network deployments like AT&T's, and serve as a barrier to entry into the cable market. It argues further that general provisions of tlie Telecommunications Act allow for preemption of local customer service standards that are inconsistent with the goals of the Act.[36]

As stated previously, general authority granted to the Commission in tlie Communications Act cannot trump specific LFA authority granted elsewhere in tlie Act.[37] In addition, many cable operators have "region-wide" network deployments (Comcast in metro Denver, Seattle-Tacoma, etc.) and have not found complying with local customer service standards to be a barrier to the provision of cable services,

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[35] Local Government Comments at p 9.
[36] AT&T Comments at p. 5.
[37] *Supra*, p 6, n. 17, citing, *National Mining Association v U S Dept of Interior*, 105 F.3d 691, 694 (D C Cir. 1997)

F. The Commission Should Not Adopt Rules Requiring that All Determinations of Gross Revenues in Cable Franchise Agreements Must be Calculated in Accordance with Generally Accepted Accounting Principles.

Time Warner seeks a Commission directive that all franchise calculations of "gross revenues" must be determined according to Generally Accepted Accounting Principles ("GAAP') [38] There are a number of reasons why this argument should be rejected First, the definition of gross revenues (and particularly what cable system revenue streams are to be included within that definition) is one of many franchise terms negotiated between the LFA and the cable operator. Modification of a contract term requires mutual agreement of the parties. *GAAP* is not a stagnant, defined method of calculation. It changes periodically, and those determinations are not within the control of either party to a franchise contract. Moreover, determination of whether a revenue stream is classified as gross revenue under GAAP requires a fact-specific determination, and even a cable operator's affirmation that its gross revenues are determined according to GAAP does not preclude an LFA challenge and a contrary conclusion. Thus, Time Warner proposes a rule that will not standardize gross revenues calculations. Rather, it will provide a third party organization, unrelated to the franchising parties, the ability to unilaterally cause negotiated franchise terms to be modified, perhaps in ways inconsistent with the negotiated expectations of the parties. For further discussion of the inappropriateness of utilizing GAAP as a standard for determining gross revenues in all franchise agreements, see the declaration of Richard D. Treich, attached as Exhibit **A.**

[38] Time Warner Comments at **pp** 9-11

G. The Commission Should Disregard Allegations that LFAs Routinely Violate Federal Law in Connection with Franchise Fee Requirements Contained in Franchise Agreements.

WideOpenWest ("WOW") argues that the Commission's new franchise fee rules must be applied to all cable providers in order to fix the problem of LFAs' continuing violations of existing law. It states that the Commission's discussion of franchise fees

> represents an affirmation of existing federal law that is far too often ignored by local franchising authorities. The Conmission should confirm that portions of its discussion relating to the 5% franchise fee cap apply to all cable operators, whether incumbent or new entrants, and all franchising authorities, whether local or state. Many LFAs require that cable operators pay PEG support and other fees and costs, provide equipment, free services and various other types of municipal funding and support, all over and above the 5% franchise fee cap.[39]

Putting the WOW allegations in the best possible light, one can only say they are disingenuous. In early 2000, WOW approached the 31 local governments comprising the GMTC and asked to negotiate a model franchise agreement that could be presented for adoption in each individual municipality or county. GMTC did in fact negotiate a model agreement (in less than four months) with WOW, aid that agreement was subsequently adopted in GMTC communities where WOW requested authority to offer cable services. In the model agreement, WOW agreed to provide free service to public buildings and pay PEG support in addition to its obligation to pay 5% of gross revenues as franchise fees.[40] Contrary to its representations to the Commission, WOW acknowledged to GMTC that it had carefully reviewed and understood the legal raniifications of the franchise provisions and that the franchise was adopted *consistent* with existing law.[41] During its GMTC negotiations, WOW never raised any concern or suggested that

[39] WOW Comments **at p** 6
[40] http://www.gmtc.org/reg_auth/wow_franchise_agreement.asp
[41] *Id* at Sections 2 **7** and 2 8

the services and fees it agreed to were in excess of the 5% franchise fee cap. If WOW truly believes that LFAs ignore the law governing franchise fees and that its agreements contain obligations inconsistent with Section 622, then it must be admitting that either it, or its counsel, was ignorant of the law at the time of franchise negotiations.[42] In fact, WOW was not ignorant of the law; it agreed to GMTC franchise provisions that were and are consistent with Section 6.22, notwithstanding its contrary representations to the Commission here.

H. Deregulation of the Cable Franchising Process Will Not Lead to Lower Cable Prices for all Consumers

Knology suggests tliat the deregulatory effect of applying all new rules to incumbents will guaranty lower prices and better services for consumers. It argues that the statutory rationale for eliminating LFA regulation of cable rates after a finding of effective competition is because the market does a better job in "regulating" for the benefit of consumers. Therefore, franchise regulation by LFAs should also be eliminated when a second entrant conies into tlie market.[43]

It niay be true that in some communities, findings of effective coiiipetition under standards established by the Conmission may result in lower consumer prices for cable services However, while most Americans have a choice of two satellite providers and one cable company, the Commission's own findings suggest that prices are not going down as a result of this "competition."[44]

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[42] The individual signing WOW's Comments in this proceeding was also its general counsel and involved in the model franchise negotiation and approval process with GMTC

[43] Knology Comments at pp **3-4**

[44] In the Matter of Implementation of Section *3* of the Cable Television Consumer Protection and Competition Act of 1992 Statistical Report on Average Rates for Basic Service, Cable Programming Service, and Equipment, MM Docket No 92-266

Multiple GMTC communities were found to have effective competition over a year ago.[45] Some oftliose communities also have a conipetitive cable operator in addition to two satellite providers.[46] Yet, cable rates in GMTC communities have continued to rise at exactly the same rate – regardless of whether it was a GMTC community where there is "effective competition" or not. While competition may have resulted in some lower prices in some parts of the country, no one can make a blanket statement that deregulation automatically leads to lower prices for consumers. Effective competition findings have had no iinpact on cable rates in metro Denver.

III. CONCLUSION

The Commission erred in the adoption of new preemptory franchise rules applicable to new entrants into the wireline video services market. Those rules are currently on appeal.[47] The Comniission should not coiiipound the error by extending those rules to incuiiibent providers. Indeed, as demonstrated in our Coninients and these Reply Comments, even if we assume, for the sake of discussion, that the Commission's Order is valid, there is no legal authority to make the new rules applicable to otlier cable operators.

As we did in connection with our Comments, the Local Governments support and endorse the Comments and Reply Comments of the National Association of Telecommunications Officers and Advisors, National League of Cities, National Association of Counties, United States Conference of Mayors, Alliance for Community Media and the Alliance for Communications Democracy. We also support the arguments raised in the Conmients of the

[45] CSR Nos 6596-E. and 6597-E

[46] Qwest provides competitive cable services in the GMTC communities of Douglas County and the City **of** Lone Tree.

[47] *Alliance* **for** *Community* **Media,** *et al v FCC* **arid** *USA*, U S Court of Appeals, Sixth Circuit, Case No 07-3391

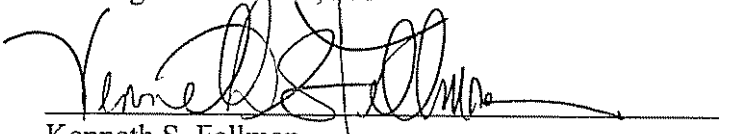
Burnsville/Eagan (MN) Teleconmunications Commission, *et al* , Fairfax County, Virginia, and Anne Arundel County, Maryland, *et al* We suggest that all of these Comments be given serious consideration by the Commission.

For the foregoing reasons, the Greater Metro Telecommunications Consortiuni, the City of Colorado Springs, Colorado and the City of Tacoma, Washington respectfully request that the Commission not extend the new entrant rules adopted in Docket No 05-311 to incumbent cable operators

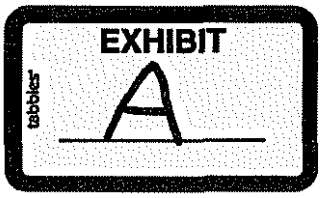
Respectfully submitted o11 this 7th day of May 2007

THE GREATER METRO TELECOMMUNICATIONS CONSORTIUM, THE CITY OF COLORADO SPRINGS, COLORADO, AND THE CITY OF TACOMA, WASHINGTON

Kissinger & Fellman, P.C.

By: 

Kenneth S. Fellman
3773 Cherry Creek North Drive. Suite 900
Denver, Colorado 80209
Telephone: (303) 320-6100
Facsimile: (303) 320-6613
kfellman@kandf.com



Before tlie
FEDERAL COMMUNICATIONS COMMISSION
Washington. D.C. 20554

In the Matter of Implementation of Section 621 (a)(1) Of tlie Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992	MB Docket No. 05-311

DECLARATION OF RICHARD D. TREICH

I, Richard D. Treicli, declare as follows:

1. I submit this declaration in support of tlie Reply Comments ("Reply") submitted by the Greater Metro Telecommunications Consortium, tlie City of Colorado Springs, Colorado and tlie City of Tacoma, Washington in tlie above-captioned matter. I am fully competent to testify to the facts set forth herein, and if called as a witness, I would testify to them.

2. I have served as CEO of Front Range Consulting, Inc. ("FRC") since December 2002. I previously served as Senior Vice President, Rates and Regulatory Matters for AT&T Broadband (and its predecessor TCI Communications, Inc.). I was also tlie Partner-in-Charge of KPMG Peat Marwick's national Cable Television and Utility consulting practices, I earned niy Bachelor of Science in Business Administration from Susquehanna University in 1975.

3. 1have over thirty years of experience in cable and utility rate regulation matters. 1 have testified in over 20 different states in 200 proceedings on utility regulatory matters

involving cost-of-service and rate design proceedings. I have co-authored a book entitled *Gas* ***Rate*** *Fundamentals* on cost-of-service studies.

4. During part of my tenure with TCI and AT&T Broadband, I was the senior executive in charge of tlie franchising group. My responsibilities in that capacity were to direct and approve all of tlie renewal and transfer franchise negotiations.

5. I have been asked to comment on tlie statements made by Time Warner Cable, Inc. that gross revenues should be determined in accordance with Generally Accepted Accounting Principles ("GAAP") for purposes of determining franchise fees. (Time Warner Comments at 6). Time Warner states: "Allowing each LFA to adopt and enforce its own interpretation of 'gross revenues' would eviscerate the desired uniformity, particularly in light of well-established standards under GAAP." (Time Warner Comments at 10 – 11).

6 In simple terms "gross" means "gross." It seems very clear that the term "gross revenues" was meant to include *all* revenues received by a cable operator, GAAP does not define "gross revenues" but does define elements and categories that should be recorded as revenue. Francliise renewal and transfers involve complex negotiations on a variety of different elements including the determination of gross revenues whereby an agreement is reached that is at or below tlie statutory maximum. From my experience as a cable operator and an advisor to Local Franchising Authorities ("LFA"), tlie determination of "gross revenues" has been a matter addressed during the negotiations including whether these determinations should or should not be made under GAAP. For example, there are many franchise agreements that either explicitly include or exclude PEG and franchise fee revenues from the determination of "gross revenues." For those agreements that exclude PEG and francliise fee revenues from the determination of "gross revenues," the LFA is receiving a franchise fee that is less than ceiling under the Cable Act,. It is clear that PEG and franchise fee revenues received by the cable operator are

considered revenues under GAAP. Therefore inserting GAAP language would be counter to these explicit agreements.

7. If the FCC were to adopt Time Warner's recommendation, essentially Tiine Warner (and other cable operators) will be granted a modification that was either omitted from the Franchise Agreement by express intent of the parties, or was not requested by the cable operator during negotiations. Such an effect is unfair to the LFA

8. Time Warner on page 9 of its comments suggests: "For example, some LFAs seek to include gross amounts as part of the franchise fee base that, under GAAP, cannot be recognized by the operator as revenue." In footnote 23 attached to this statement, Time Warner references EITF Abstract 99-19.[1] While the EITF Abstract discusses the analysis one must go through in order to decide if revenue should be reported on a net versus gross basis, the EITF Abstract is not specific to cable or even to the determination of gross revenues under a franchise agreement. Tiine Warner is possibly complaining about LFAs that seek to include gross advertising sales commissions for affiliated advertising sales organizations as coinpared to only including the net advertising sales commissions. It is not uncommon for LFAs and cable operators to disagree on whether. a cable operator should be able to pay itself (through an affiliated advertising sales organization) a commission, which can have the effect of evading the cable operator's obligations to pay franchise fees on all of its "gross" revenues. The issue is not a GAAP issue: but one of a cable operator being able to evade a portion of its franchise fees obligation by creating an affiliated organization that can skim some of the gross revenues before being allocated to the franchised cable operator. The use of the net advertising sales for *non*-affiliated sales organizations is typically not an issue. No matter what GAAP may require, the

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[1] The Emerging Issues Task Force ("EITF") is part of the Financial Accounting Standards Board.

issue is primarily with the affiliation of the advertising sales organization. As a result, many franchise agreements specifically contain language regarding affiliates of the cable operator and prohibit the use of those affiliates to evade franchise fee obligations.

9. Time Warner would have tlie FCC believe that including a GAAP mechanism in the determination of "gross revenues" would somehow eliminate the controversy with regards to franchise fee reviews. This could not be further from the truth. LFAs would still be able to challenge the determination of GAAP as part of the review. The fact that Time Warner's retained outside auditors took a position consistent with Time Warner's own financial presentation would not be dispositive on what GAAP is. Rather it would only be what Time Warner suggests GAAP is. The controversy would still exist until definitive on-point accounting pronouncements were released, which is unlikely in the near term

10. More importantly, GAAP is an evolving art. As can be seen in Attachment 1 (*Franchise Fee Accounting Procedures Related to Comcast and AT&T* by Robert Norr, Darren Daugherty, Chris Hanna and Cliris McRoberts) to this declaration, apparently Time Warner, Cox and Charter were accounting for franchise fee revenues as a contra expense,. The authors suggest that this was tlie proper accountiiig of the franchise fee revenues. As these three companies were all public compaiiies at that time one would assume that their respective outside public accounts endorsed such an accounting. The article on page 4 contains tlie following observation:

> Another factor complicating the issue of franchise fees is the wide variance in opinions throughout industry Robert I-Ierdman of Comcast states, "... diversity in practice has and continues to exist within the cable communications industry."[3] No generally accepted consensus exists because, given the freedom to do so, each company will adjust its financials to best suit its needs. FN *3* Herdman, Robert K. *Income Statement Presentation of Franchise Fees. 07* Mar 2002.

11. According to the article, at least Time Warner and Cox changed its accounting of the franchise fee revenues in 2001 to conform its accounting to the recently issued EITF Abstract 01-14 (exhibits 1 and 3 respectively to tlie article).

12. Had GAAP been the "official" position for the determination of what constitutes revenues for the purpose of calculating franchise fees, we know that at least three companies would have excluded these revenues from the deterniination of gross revenues prior to 2001 even though when addressed by the Financial Accounting Standards Board (FASB) this would have been found to be an improper accounting treatment with the issuance of EITF 01-14. In this EITF Abstract 01-14: there is no mention of cable franchise fee or the determination of gross revenues for purposes of deterinining franchise fees, yet at least Time Warner and Cox changed their respective treatments of the franchise fee revenues as a result of this generic discussion in EITF 01-14.

13. Further pointing to the constantly evolving nature of the accounting profession: the FASB initiated a "Revenue Recognition Project" **in** January 2002 which is currently ongoing "to develop coherent conceptual guidance for revenue recognition." While it is not clear what will come of this project, what is clear is that the FASB sees a need to revise the issue of revenue recognition and will possibly be making new pronouncements. Attachment 2 to this declaration is the most recent status of this FASB project.

14. Contrary to what Time Warner is requesting, what is needed is not the federal imposition of these GAAP guidelines in the determination of something called "gross revenues," but rather better efforts by both cable operators and LFAs during local franchise negotiations of what revenue streams are to be included in the determination of gross revenues. By having a more robust description of the revenue streams that constitute gross revenues, both LFAs and

cable operators will know on what basis tlie payment of franchise fees for the use of the public rights of ways are to be determined.

15. I declare under penalty of perjury that the facts stated herein, are true and correct to the best of my knowledge and belief.

This declaration was executed on 4th day of May, 2007 at Castle Rock, CO

Richard D. Treich

ATTACHMENT 1

Franchise Fee Accounting Procedures

Relating to

Comcast and AT&T

By

Robert Norr

Darren Daugherty

Chris Hanna

Chris McRoberts

ACCT 6212

Fall 2002

Prof Steven Henning

INTRODUCTION

The Fmerging Issues Task Force (EITF) recently ruled that franchise fees should be reported as part of gross revenue. Prior to this ruling, companies had the discretion to report franchise fees as part of gross revenue or as an offset against operating earnings Comcast currently reports franchise fees as an offset against operating earning, and opposes the new EITF ruling. The timeliness of clarification for this ruling is paramount to Comcast for two reasons The first is because it is about to issue its 10-K report and a change in accounting procedures will inaccurately inflate their gross revenue totals The second reason is that Comcast and AT&T Broadband account for franchise fees differently and clarification on this issue needs to be resolved prior to their pending merger by the end of 2002

There are many recommendations and issued statements as to the accounting of franchise fees, Due to widely varying industries, business agreements and regulations, the issue is not very clear To determine the proper accounting procedure one must examine the individual situation or industry Further, one must recognize the importance of proper accounting procedures and their effect on company financial statements and how they are to be used by the industry

ISSUE ANALYSIS

Our group has elected to oppose the recent EITF ruling with regards to finance fees for the following reasons:

Whether or not franchise fees are recognized as gross revenue or netted against operating expenses, the end effect on net income is the same However, this difference has far-reaching effects for companies where hundreds of millions of dollars in franchise fees are assessed each year, like those in the cable communications industry. For example, a common basis of comparison of cable communications companies customarily involves the "average revenue per subscriber" Lets

assume that two cable companies each charge $50 per month with an additional $5 for franchise fees, if both used different accounting policies, one would report average revenue per subscriber as $50 and the other as $55, foi a difference of approximately 10% Unless an investor makes tlie necessary adjustments, that investor will not be able to adequately compare the operating efficiency of these two companies

In addition, Section 622c1 and 622e of The Communication Act of 1934 and its addendums allows cable operators to charge franchise fees by passing them thiougli directly to subscribers In doing so, the cable operator has tlie option to add this charge as a line item to the subscriber's bill. Comcast follows tliis ruling by billing its franchise fees as a pass tlirough item Comcast does not have any influence over the existence or the amount of the franchise fee and uses the pass through mechanism to inform the customer how much of their bill goes directly to the local municipality. Since the entire fee collected is passed from tlie customer to the municipality as a zero margin item, tlie fee should be offset against earnings on the income statement By presenting the lee as a line item on a subscriber's bill, it is clear from the revenue collection aspect that the cable operator has no management control over the fee Therefore, it should be stated separately to avoid tlie possible misinterpretation on the income statement.

Another issue has arisen regarding the pass through of franchise fees. Cable operators often have revenue from sources other than subscribers, which is also subject to the franchise fees. The City of Pasadena, California requested clarification from the FCC regarding this matter. The FCC responded that it is allowable for a cable operator to charge 100% of its franchise fee directly to subscribers, even when some of their revenue comes from non-subscriber services'. However, the FCC Local and State Government Committee published their Advisory Recominendation No., 21, which states that cable operators should not charge

100% of the franchise fee to only one of several sources of revenue? Another factor complicating the issue of franchise fees is the wide variance in opinions throughout industry. No real consensus exits because, given the freedom to do so, each company will adjust its financials to best suit its needs.

While neither of the two EITF documents addresses franchise fees directly, the documents do give some situations to determine if net or gross revenues should be used

The majority of the examples given are centered on products that a company is selling to its customers. Whether or not these companies produce the product or resell it, the company takes physical ownership or title As this is common practice to buy products and resell them, the conclusions were to report these earnings as a part of gross revenue, Other examples addressed the issues of service commissions Companies reselling products or offering services where title is not obtained can use the net method because the company does not offer any fulfillment or customer service role in the delivery of the product

Franchise fees, as stated are very similar to a line charge or tax The company is not marketing its franchise Fee and according to EITF 01-14, the franchise fee is similar to a pass-through cost, which has a zero margin and the cable company has no latitude in determining the pricing of the franchise fee. Until the SEC makes a clear determination of the treatment of franchise fees, ambiguity will continue to taint financial statements of these companies,

Presentation of the franchise fee is not the central issue. Comcast will have to pay the fee whether or not it presents it to the customer. Furthermore, the FCC authorizes Comcast to charge its customers the fee with zero margin, thus, making it a pass-thru cost, This fee is a little different than sales tax, as tax is a variable that increases or decreases with dollar sales volume. The fee is a

[1] http://www fcc gov/statelocal/recommendation21 html
[2] http://wu%v naco org/leg/platform/teletech/cablefran03 cfm

fiied charge per customer no matter how many services Comcast provides. Franchise fees do not necessarily have to be included on each subscriber's bill to be a valid pass-thru cost.

Another factor complicating the issue of franchise fees is the wide variance in opinions throughout industry Robert Herdman of Comcast states, "...diversityin practice has and continues to exist within the cable communications industry "[3] No generally accepted consensus exists because, given the freedom to do so, each company will adjust its financials to best suit its needs

It is useful to examine the reporting of several different companies and see if any generalizations can be made. As shown in exhibit 1, AOL Time Warner states that historically. franchise fees have been treated as an offset against operating earnings, By applying the guidelines of Topic D-103, revenues will increase by approximately $300 million for 2002

Another cable industry company, Cox Communications, also treats the fees as a pass through item, whereas Charter Communications reports them as part of gross revenue This is shown in Exhibits 2 and 3

The main argument against counting the **fees** as revenue is that it seems relatively deceptive given that the money is not exchanged for any type of goods or service. It is interesting then to compare the stock performance of companies who utilize each reporting style While the whole sector experienced a large decrease in market cap, the firm that relied on the fees for revenues performed notably worse. As shown in Exhibits 4 through 7, the decrease in stock price from January 1, 2002 to September 9,2000 for AOL Time Warner, Comcast, and Cox Communications was 63%, 43%, and 48% respectively. Charter Communications had a decrease of 87%. It is reasonable to assume that the motivation for including the fees was to try to improve the appearance of poor company performance

[3] Herdman, Robert K. *Income Statement Presentation of Franchise Fees* 07 Mar **2002**

An analogous topic is "out-of-pocket" expenses, also covered by Topic D-103 Recently, most IT service firms were found to report these expenses on a net basis.[4] This reinforces the idea that most mainstream companies tend to use this type of reporting There is still a diversity in practice, however, where some weaker companies like to report these expenses as revenue

SUMMARY

To adequately determine the issue of accounting for franchise fees, the issue of why we have financial reporting and standards must be examined Financial reporting was created to allow investors both current and potential the access to the health of a company to determine whether to invest, divest, value the company or effectiveness of management Without this insight, outside investments in a company would be impossible However, until standards were implemented. it was impossible to compare the success of a company with another due to inconsistencies in the way different corporations accounted for different income and expense items. Thus the FASB and accounting standards were created Now investors had the access and consistency they needed to malte informed investment decisions. The issue before us bas to deal with both consistency and adequately representing the real revenue generated by a company and the control over which management has control over those revenues, It is recommended that the EITF make a final ruling for consistency sake It is also recommended that the EITF rule that franchise fees be accounted as a pass through expense due management's lack of control over these fees and that by including these fees as gross revenue would misrepresent the real revenue generated by the company.

[4] Casco Jr., Edward S and Fendley, Clinton D *Account Change to Affect Margin Presentation.* 15 Jan, 2002

EXHIBIT 1: NOTES FROM AOL/TIME WARNER

AOL TIME WARNER INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

D-103") Topic D-103 requires that reimbursements received for out-of-pocket expenses be classified as revenue on the income statement and will be effective for AOL Time Warner in the first quarter of 2002. A5 a result of this classification change, AOL. Time Wamcr will present cable franchise taxes collected from subscribers as revenues. As 3 result of applying the guidance of Topic D-103, AOL Time Warner management believes that the Company's revenues and costs will be increased by an equal amount of approximately $280-$320 million, having no impact on operating income or EBITDA. Once adopted, the new guidance requires retroactive restatement of all periods presented to reflect the new accounting provisions.

AOL Time Warner 2001 Annual Report P43

EXHIBIT 2: NOTES FROM CHARTER COMMUNICATIONS

Overview of Operations

Approximately 85% of our revenues for the year ended December 31, 2001 are attributable to monthly subscription fees charged to customers for our basic, expanded basic, premium and digital cable television programming services, Internet access through television-based service, dial-up telephone modems and high speed cable modem service equipment rental and ancillary services provided by our cable systems. The remaining 15% of revenue is derived primarily from installation and reconnection fees charged to customers to commence or reinstate service, pay-per-view programming, advertising revenues, commissions related to the sale of merchandise by home shopping services and franchise fees. We have generated increased revenues in each of the past three years, primarily through customer growth from acquisitions, internal customer growth, basic and expanded tier price increases and revenues from new services and products.

Charter Communications 2001 Annual Report P16

EXHIBIT 3: NOTES FROM COX COMMUNICATIONS

2. Summary of Significant Accounting Policies and Other Items (Continued)

At the November 2001 meeting of the Emerging Issues Task Force, or EITF, the FASB staff announced their position regarding the classification of reimbursements for out-of-pocket expenses. The FASB staff believes that these reimbursements should be classified as revenue in the statements of operations. The staff announcement, which will be codified in EITF Topic No. 01-14, is effective for fiscal years beginning after December 15, 2001 and will require comparative financial statements for prior periods to be reclassified. Cox is currently assessing the impact of this announcement, which will be adopted in the first quarter of 2002, on its consolidated financial statements.

Reclassifications

Certain amounts in the 2000 and 1999 consolidated financial statements have been reclassified for comparative purposes with 2001.

Cox Communications 2001 Annual Report P52

Exhibit 4: AOL TIME WARNER STOCK PERFORMANCE

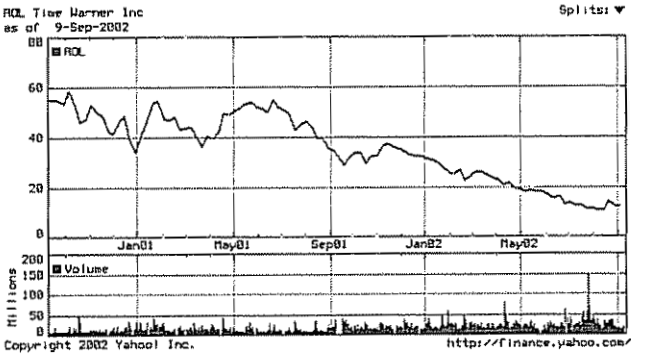

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Exhibit 5: CHARTER COMMUNICATIONS STOCK PERFORMANCE

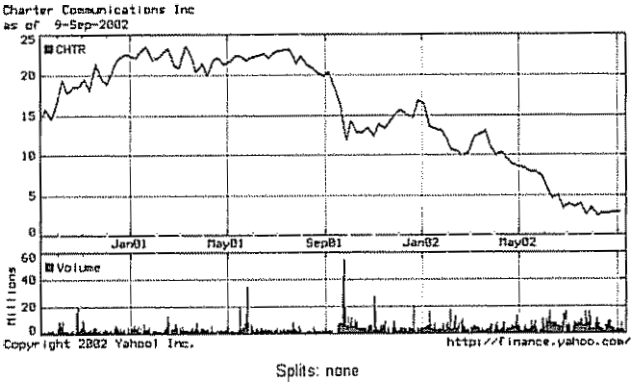

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Exhibit 6: COMCAST CORPORATION STOCK PERFORMANCE

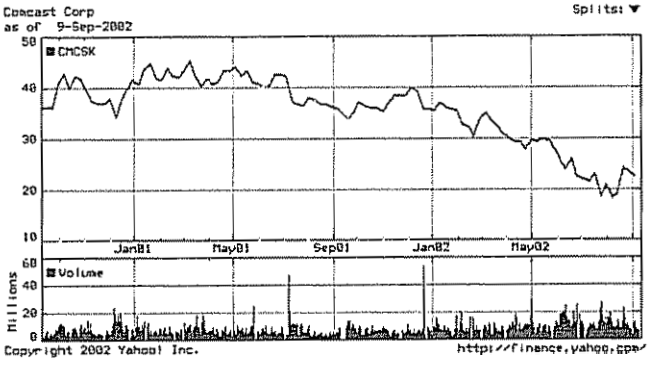

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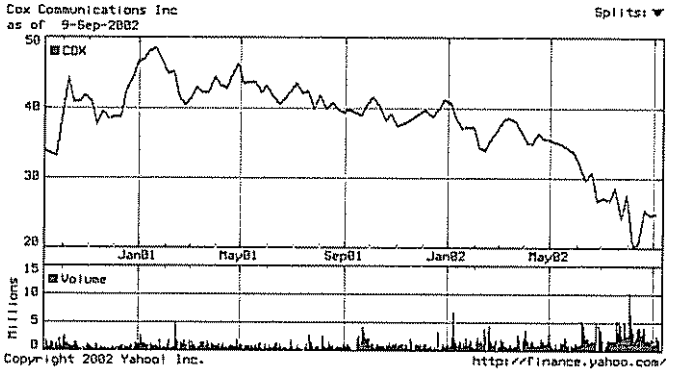
Exhibit 7: COX COMMUNICATIONS STOCK PERFORMANCE



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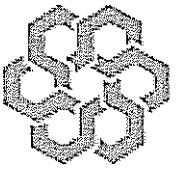
ATTACHMENT 2

FINANCIAL ACCOUNTING STANDARDS BOARD



International Accounting Standards Board®

Project Updates

Revenue Recognition

Last Updated: March 6,2007 (Updated sections are indicated with an asterisk *)

This project update summarizes the project activities and decisions of the *IASB* and FASB (the Boards). It was prepared by the staff and is for the information and convenience of the Boards' constituents. All decisions of the Boards are tentative, may change at future Board meetings, and do not change current accounting and reporting requirements. Decisions of the Boards become final only after extensive due process.

''OBJECTIVES AND SCOPE

The objective of this project is to develop coherent conceptual guidance for revenue recognition and a comprehensive Statement on revenue recognition that would be based on those concepts. In particular, the project intends to improve financial reporting by:

1. Converging US and international standards on revenue recognition

2. Eliminating inconsistencies in the existing conceptual guidance an revenues

3. Providing conceptual guidance that would be useful in addressing revenue recognition issues that may arise in the future

4. Eliminating inconsistencies in existing standards-level authoritative literature and accepted practices

5. Filling voids in revenue recognition guidance that have developed over time

6 Establishing a single, Comprehensive standard on revenue recognition

The comprehensive standard that is expected to result from this project is planned to apply to all business entities; however, the Boards may conclude that certain transactions or industries requiring additional study should be excluded from the scope of that standard and addressed separately.

Concurrent with the goal of improving the quality of financial reporting, the FASB and the IASB are seeking to promote the international convergence of accounting standards by conducting this project jointly. As a joint project, the Boards share staff resources and are working to coordinate the eventual issuance of an initial due process document (Preliminary Views/Discussion Paper), an Exposure Draft, and a comprehensive final Statement/Standard The Boards also are coordinating the timing of their deliberations of the joint project's issues, but each Board individually deliberates and votes on those issues Consequently, at any given time, the FASB may have reached a tentative conclusion on an issue that the IASB has not yet deliberated (or vice-versa)

***IMMEDIATE PLANS AND NEXT EXPECTED DUE PRQCESS DOCUMENT**

The staff is working together with Board advisors to develop two models for revenue recognition: the fair value model and the customer Consideration model.

The Boards' goal is to issue a due process document by the end of 2007 covering both concepts- and standards-level revenue recognition guidance

DECISIONS REACHED AT THE LAST MEETING (October 24,2006 Joint Board Meeting)

The Boards affirmed their goal of issuing a due process document on revenue recognition by the end of 2007. The Boards decided that the due process document should explain, illustrate, and compare both the customer consideration model and the fair value model They also agreed that the staff (in consultation with a small group of Board members) should further develop both models before bringing them to the Boards for evaluation, discussion, and possible additional development

***HISTORY**

In January 2002, the FASB Board discussed the objective and scope of a potential major project on the recognition of revenues and liabilities in financial statements That project would lead to a new comprehensive accounting standard on revenue recognition, and also would amend the related guidance on revenues and liabilities in certain of the FASB Concepts Statements. The Board decided to issue a project proposal for public comment with a 60-day comment period. In May 2002, after considering 32 comment letters received on the project proposal, the Board added to its technical agenda a project to develop a comprehensive accounting standard on revenue recognition and to amend the related guidance on revenues and liabilities in certain of the FASB Concepts Statements

The first stage of the project was conducted in *two* interrelated "parts" that were pursued simultaneously-the "tap-down" approach and the "bottom-up" approach The top-down approach involved developing the conceptual guidance pertaining to recognition and measurement of revenues that will form the basis for the comprehensive standard That stage is currently in progress The bottom-up approach involved analyzing existing authoritative guidance to gain an understanding of the existing revenue recognition models in that guidance. The bottom-up approach included an extensive examination of the existing authoritative revenue recognition literature and the transactions to which that literature is applied. In addition, it also considered other practices (such as industry-specific practices) that have not been codified but are regarded as accepted practices. As part of the bottom-up stage, the staff developed a comprehensive inventory of that guidance and those practices. The bottom-up stage facilitated the identification of accounting models and transaction families, which will be helpful in identifying specific situations to be considered in the development of the comprehensive standard on revenue recognition. To the extent that different accounting models are applied to the same (or similar) transaction families, comparability issues may exist That stage was completed in August 2003 and was discussed at the August 13, 2003 Board meeting.

In October 2004, the FASB and IASB Boards added to their agenda a joint project to develop an improved and common conceptual framework that is based on and builds on their existing frameworks That project addresses certain recognition and measurement issues that were originally included in the scope of the Revenue Recognition project

Prior to May 2005, the Boards were developing a revenue recognition approach that would measure assets and liabilities at fair value (the fair value model). An example of the assets and liabilities approach using fair value measures can be downloaded here: Case in Point: Consumer Electronics Retailer

Under that approach, the Boards tentatively agreed that the fair values of performance obligations should be measured at the legal layoff price, that is, the price that the reporting entity would have to pay an unrelated party to assume legal responsibility for performing all of its remaining obligations. Some Board members had certain practical concerns about reasonably estimating fair values and other Board members had concerns about the pattern of revenue recognition under that approach

As a result, the Boards agreed to develop another implementation of the asset and liability model. a customer consideration model In this model, performance obligations would be measured using an allocation of the customer consideration amount rather than at the fair value of the obligation.

In October 2006, the Boards decided that they should complete the preliminary development of both the fair value and customer consideration models, rather than trying to develop the customer consideration as a 'compromise model' that would command broad support amongst Board members

The Boards therefore currently envisage that the initial due process document will explain, illustrate, and compare both models, without either of the models necessarily being described as the Boards' 'preliminary view' Accordingly, the due process document is expected to establish the basic structure of what an asset and liability model would entail for revenue recognition It will demonstrate how the main issues would be resolved under both models so that constituents can appreciate and evaluate the differences between them It may also highlight the reasons why some Board members prefer one model over the other and vice versa

*BOARD **MEETING/PUBLIC** MEETING DATES

The Board meeting minutes are provided for the information and convenience of constituents who want *to* follow the Boards deliberations All of the conclusions reported are tentative and may be changed at future Board meetings Decisions become final only affer a formal written ballot *to* issue a final Statement or Interpretation

Below is a list of the FASB Board/Public meetings for this project with links to the minutes for each meeting

October 24,2006	FASB-IASB Joint Meeting — Due Process Document
July 26, 2006	Board Meeting— Application of the Board's Decision on the Meaning of Performance
April 27, 2006	FASB-IASB Joint Meeting— Accounting for Performance

March 1, 2006	Board Meeting-- Accounting for Wholly Executory Contracts and Assessing when Performance has Occurred
October 24,2005	FASB-IASB Joint Meeting— Identification and Initial Measurement of Performance Obligations and the Definition of Revenues
September 21, 2005	Board Meeting— Identification and Initial Measurement of performance Obligations in Revenue Contracts
June 21, 2005	Financial Accounting Standards Advisory Council Meeting
May 11, 2005	Board Meeting— Project Objective and Scope
October 20,2004	FASB-IASB Joint Meeting— Accounting for Contractual Obligations from a Customer Perspective versus a Reporting Entity Perspective and Accounting Treatment of "Residual" Created upon Contract Generation

August 4, 2004	Board Meeting — Accounting for Contractual Obligations from a Customer Perspective versus a Reporting Entity Perspective and Accounting Treatment *of* "Residual" Created upon Contract Generation
June 22, 2004	FASAC Meeting Handout
June 9, 2004	Board Meeting — Reliability of Estimates in Present-Day Financial Statements and Evidence of Fair Value
April 23, 2004	FASB-IASB Joint Meeting — Defining Revenues and Other Components *of* Comprehensive Income, Readily Marketable Commodities, Performance by Third Parties, and Nonreciprocal Transfers and Refining the Definition of Revenues

March 16, 2004	**Board Meeting**— Revisions of Principles and Implementation Guidance, Initial Fair Value Measurement of Performance Obligations, and Obligations to Be Included in the Scope of the Standard on Revenue Recognition
February 18, 2004	**Board Meeting**— Use of the Term *Conditional* Rights and Obligations, Consistency of Measurement Decisions between the Revenue Recognition and Fair Value Measurement Projects; Approaches to Developing the General Standard and Related Application Guidance, and Draft Recognition and Measurement Principles
December 17,2003	**Board Meeting**— Discussion of Enforceable Rights and Obligations
December 10,2003	**Board Meeting**— Recapitulation of Conceptual Decisions and Summary of Open Issues

December 4,2003	FASAC Meeting Handout
October 22, 2003	FASB-IASB Joint Meeting — Measuring Performance Obligations and Application of the Conceptual Model to Certain Transactions
September 17, 2003	Board Meeting — Application of the Conceptual Model to Certain Transactions
August 13, 2003	Board Meeting — Analysis of Inventory of Existing Revenue Recognition Guidance
July 23, 2003	Board Meeting — Revenues and Contractual Rights and Obligations
June 24, 2003	**FASAC** Meeting Handout
June 11, 2003	Board Meeting — Revenues and Contractual Rights and Obligations
May 7, 2003	Board Meeting — Cases Illustrating Different Combination Sequences of the Two Views of Revenues
April 9, 2003	Board Meeting — Review of the Alternate Views of Revenue and Revenue Issues Related to Specific Transactions

February 26, 2003	Board **Meeting**— Comparing the Liability Extinguishment View and the Broad Performance View of Revenue Recognition
January 22, 2003	Board **Meeting**— Definition of Revenue and Performance of Revenue-Generating Activities
December 18, 2002	Board **Meeting**— Revenue Recognition in Conjunction with Obligations to Customers that Are Performed by Others and Issues Relating to EITF issue No. 99-19
November 13, 2002	Board **Meeting**— Refining the Working Criteria of Revenue Recognition and Applying the Working Criteria to Cases from EITF Issue No 00-21
October 9, 2002	Board **Meeting**— Conceptual Criteria Underlying Revenue Recognition

September 18, 2002	FASB-IASB Joint Meeting — Formal Agreement to Joint Project on Revenue Recognition, Consideration of the Existing Conceptual Criteria for Revenue Recognition; and Illustration of the Assets and Liabilities Approach to Revenue Recognition
June 25, 2002	FASAC Meeting Handout
May 15, 2002	Board Meeting — Proposal for a New Agenda Project on Issues Related to the Recognition *of* Revenues and Liabilities
March 26, 2002	FASAC Meeting Minutes

The IASB meeting summaries and observer notes for meetings from March 2006 can be found by clicking here Meeting summaries for meetings before March 2006 can be found in the *IASB Update* These are available by clicking here.

RELATED FASB DOCUMENTS

Download the Revenue Recoanition article from the December 24,2002 FASB Report

Download the January 28, 2002 Project Proposal, *Issues* Related *to* the Recoanition *of* Revenues and Liabilities

Comment Letters on Proiect Proposal

*CONTACT INFORMATION

Jeff Wilks
FASB Project Manager
tjwilks@fasb org

Henry Rees
IASB Project Manager
hrees@iasb org

Todd Johnson
FASB Senior Technical Advisor
ltjohnson@fasb org

April Pitman
IASB Project Manager
apitman@iasb org